

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K-12 Appropriations Committee

BILL: CS/CS/SB 896

INTRODUCER: Education Pre-K-12 Appropriations Committee, Health Regulation Committee and Senators Peaden and others

SUBJECT: Students with Diabetes

DATE: April 19, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	ED	Fav/1 amendment
2.	Harper	Wilson	HR	Fav/CS
3.	Armstrong	Hamon	EA	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill provides guidelines for school district management of diabetes care for students by:

- prohibiting school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel;
- permitting diabetic students, with appropriate written authorization, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities;
- requiring parents of students who are authorized to carry diabetic supplies or equipment to indemnify the school district, county health department, and public-private partner, and the employees and volunteers of those entities, from any and all liability with respect to the student's use of such supplies and equipment; and
- requiring the State Board of Education (SBE), in cooperation with the Department of Health (DOH), to adopt rules for the management and care of diabetes by students in

schools to ensure that every school in which a student with diabetes is enrolled has personnel trained in routine and emergency diabetes care.

The bill also adds a representative from the Florida Academy of Family Physicians to the Diabetes Advisory Council.

This bill amends section 385.203 and 1002.20, Florida Statutes.

II. Present Situation:

Growing Prevalence of Diabetes

Diabetes is a disease associated with high levels of blood glucose resulting from defects in insulin production that causes sugar to build up in the body. It is the seventh leading cause of death in the country and can cause serious health complications including heart disease, blindness, kidney failure, and lower-extremity amputations.¹ The term “diabetes” often refers to either Type 1 diabetes or Type 2 diabetes. Type 1 diabetes more often affects children and young adults, and was previously called “juvenile-onset diabetes.” Type 2 diabetes accounts for 90 to 95 percent of all diagnosed cases of diabetes in adults, and was previously called “adult-onset diabetes.” Type 2 diabetes tends to be associated with older age, obesity, physical inactivity, and race/ethnicity. Type 2 diabetes in children and adolescents, although still rare, is being diagnosed more frequently among American Indians, African Americans, Hispanic/Latino Americans, and Asians/Pacific Islanders.²

According to the Centers for Disease Control and Prevention (CDC), in 2007 there were 23.6 million people (7.8 percent of the population) who had diabetes and the overall prevalence of the disease is rising.³ In 2008, the number of people with diabetes increased to 24 million.⁴ In the state of Florida, 8.1 to 9.1 percent of adults had diabetes in 2008.⁵ The CDC reported that in 2007, about 186,300 people younger than 20 years had diabetes, which represents 0.2 percent of all people in this age group.⁶

Students Who Have Diabetes in Florida

According to the DOH, there were 1,169 registered nurses providing oversight for 7,968 students reportedly diagnosed with diabetes in 3,658 traditional public schools (not including charter schools) in 2008-2009.

Administering Medication in School

¹ U.S. Centers for Disease Control and Prevention (CDC), Press Release available at:

<<http://www.cdc.gov/media/pressrel/2008/r080624.htm>> (Last visited on March 25, 2010).

² CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

³ CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

⁴ CDC, Press Release available at: <<http://www.cdc.gov/media/pressrel/2008/r080624.htm>> (Last visited on March 25, 2010).

⁵ Found at: “Florida – Percentage of Adults Diagnosed with Diabetes 1984 – 2008”

<<http://apps.nccd.cdc.gov/ddtstrs/Index.aspx?stateId=12&state=Florida&cat=prevalence&Data=data&view=TO&trend=prevalence&id=1>> (Last visited on March 25, 2010).

⁶ CDC, “National Diabetes Fact Sheet, 2007.” Available at: <http://www.cdc.gov/diabetes/pubs/pdf/ndfs_2007.pdf> (Last visited on March 25, 2010).

Section 1006.062, F.S., currently allows nonmedical district school board personnel to perform health-related services upon successful completion of child-specific training by a licensed health care professional—a registered nurse, advanced registered nurse practitioner, physician, or a physician assistant. All health-related procedures are required to be monitored periodically by a nurse, advanced registered nurse practitioner, physician assistant, or physician. The statute specifically authorizes monitoring blood glucose and administration of emergency injectable medication. Each school board must have written policies and procedures for the administration of prescription medications and must receive, count, and store the medication in its original container. The statute exempts the person administering the medication from civil liability.

The DOH, in cooperation with the Department of Education (DOE), local school health providers, and community stakeholders, has developed the “Nursing Guidelines for the Delegation of Care for Students with Diabetes in Florida Schools” (2003)⁷ to help ensure that students with diabetes are provided a safe learning environment. Diabetes management means monitoring or checking blood glucose levels throughout the day, following an individualized meal plan, getting regular physical activity, and administering insulin or medications to help keep blood glucose levels in the target range and to prevent the onset of hypoglycemia or hyperglycemia.⁸ As recommended in the guidelines, all students with diabetes need an individual health care plan that includes an emergency care plan. Section 504 of the federal Rehabilitation Act of 1973⁹, requires school personnel to provide appropriate accommodations in order for students with diabetes to participate in the same academic, nonacademic, and extracurricular activities as their peers.

According to the DOE, effective school-based diabetes management requires a two-pronged approach:

- All school staff members who have contact with students with diabetes should receive training that provides a basic understanding of general diabetes management, how to identify medical emergencies related to diabetes, and whom to contact in case of an emergency.
- In addition to the above general diabetes training, certain designated school staff members should receive training from a qualified health care professional for child-specific management and emergency care in accordance with an individual health care plan so that at least one school staff member is always on campus for each student with diabetes.¹⁰

The Florida Nurse Practice Act¹¹ defines the process for delegating nursing tasks and activities, such as insulin and glucagon administration, to unlicensed assistive personnel. Since many Florida schools do not have a full-time nurse on campus, “Technical Assistance Guidelines: The Role of the Professional School Nurse in the Delegation of Care in Florida Schools” (2006)¹² has been developed by the DOH, in cooperation with the DOE, local school health providers, and

⁷ Available at: <<http://www.doh.state.fl.us/Family/school/reports/DiabetesGuidelines2003.pdf>> (Last visited on March 25, 2010).

⁸ National Diabetes Education Program “Helping Students with Diabetes Succeed: A Guide for School Personnel.” Available at: <<http://ndep.nih.gov/publications/OnlineVersion.aspx?NdepId=NDEP-61#page8>> (Last visited on March 25, 2010).

⁹ 29 U.S.C. Section 794

¹⁰ Department of Education SB 896 Bill Analysis, January 7, 2010. On file with the Senate Committee on Health Regulation.

¹¹ Chapter 464, F.S., and ch. 64B9-14.001-14.003, F.A.C.

¹² Found at: <http://www.doh.state.fl.us/Family/school/attachments/Documents/TA_guidelines.html> (Last visited on March 25, 2010).

community stakeholders, in order to address delegation of health care services in Florida schools to ensure the well-being and safe care of students.

In addition to the Florida Diabetes and Delegation Guidelines, the Florida School Health Administrative Guidelines (2007)¹³ provides overall policy guidance for school health administrators in Florida. Chapter 6 of the guidelines addresses the necessity for an Individual Health Care Plan (IHCP) based on the student's medical management plan from the physician.

School Health Services Plans

Section 381.0056, F.S., defines "school health services plan" as the document that describes the health services to be provided, responsibility for provision of the services, anticipated expenditures to provide the health services, and evidence of cooperative planning by school districts and county health departments. The school health services plan must include annual notification to the local nonpublic schools of the opportunity for representatives of these schools to voluntarily participate in the school health services program.

Diabetes Advisory Council

The 25-member Diabetes Advisory Council¹⁴ is appointed by the Governor to serve as the advisory unit to the Department of Health, other governmental agencies, professional and other organizations, and the general public. The council provides statewide leadership to continuously improve the lives of Floridians with diabetes and reduce the burden of diabetes; serves as a forum for the discussion and study of issues related to the public health approach for the delivery of health care services to persons with diabetes; and annually meets with the State Surgeon General or designee to make specific recommendations regarding the prevention and control of diabetes.

III. Effect of Proposed Changes:

The bill prohibits school districts from restricting the assignment of a student who has diabetes to a particular school on the basis that the student has diabetes, that the school does not have a full-time nurse, or that the school does not have trained diabetes personnel. The bill permits diabetic students, whose parent and physician provide their written authorization to the school principal, to carry diabetic supplies and equipment on their person and attend to the management and care of their diabetes while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities to the extent authorized by the parent and physician and within the parameters set forth by State Board of Education rule.

The parent of a student authorized to carry diabetic supplies or equipment must indemnify the school district, county health department, and public-private partner, and the employees and volunteers of those entities, from any and all liability with respect to the student's use of such supplies and equipment.

The State Board of Education (SBE), in cooperation with the Department of Health (DOH), must adopt rules:

¹³ Available at: <http://www.doh.state.fl.us/Family/school/attachments/sh_index.htm#Administrative%20Guidelines> (Last visited on March 25, 2010).

¹⁴ s. 385.203, F.S.

- For the management and care of diabetes by students in schools that must include provisions to protect the safety of all students from the misuse or abuse of diabetic supplies or equipment; and
- To encourage every school in which a student with diabetes is enrolled to have personnel trained in routine and emergency diabetes care.

The bill adds a representative from the Florida Academy of Family Physicians to the Diabetes Advisory Council.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

School districts may incur additional costs for the training of school personnel in routine and emergency diabetes care.

In addition, the State Board of Education and the Department of Health may incur costs associated with adopting rules to administer the provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K-12 Appropriations Committee on April 19, 2010:

This committee substitute:

- Requires each school in which a student with diabetes is enrolled to have trained personnel but makes the training requirements less prescriptive, more flexible, and to be established in rule by the State Board of Education and the Department of Health;
- Does not require each school district and private school to submit an annual report to the DOE; and
- Does not provide immunity from civil liability for medical personnel and school employees who treat a student with diabetes but instead requires the parent to indemnify the school district, health department, and public private partners and their employees and volunteers.

CS by Health Regulation on March 26, 2010:

This committee substitute clarifies that bus drivers who are responsible for the transportation of students who have diabetes are to be trained in the recognition of hypoglycemia and hyperglycemia and in actions to take in response to emergency situations.

- B. **Amendments:**

None.